

AMENDED IN ASSEMBLY APRIL 4, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2629

Introduced by Assembly Member Cox

February 25, 2000

An act to amend Sections 6716, 6717, 6775, 8710, and 8780 of, and to add Sections 6731.5, 6731.6, 6749, and 8759 to, the Business and Professions Code, relating to professional engineers and land surveyors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2629, as amended, Cox. Professional engineers and surveyors.

(1) Existing law provides for the licensing and regulation of engineers and land surveyors. Existing law permits the Board for Professional Engineers and Land Surveyors to determine the scope of practice for electrical and mechanical engineers.

This bill would delete that authority, and would describe the scope of practice of those 2 branches of engineering.

(2) Existing law permits the board to adopt rules and regulations necessary to govern its action, and permits the board to discipline professional engineers and licensed land surveyors.

This bill would permit the board to adopt rules and regulations relating to professional conduct to maintain a high standard of integrity in the engineering and land surveying professions, and would revise the provisions relating to

reproving, revoking, or suspending a professional engineers' certificate or licensed land surveyor's license. The bill would also require, with certain exceptions, that professional engineering services and land surveying services be undertaken only after the execution of a written contract containing specified terms and conditions.

(3) Existing law makes a violation of the regulatory provisions of the Professional Engineers Act and the Professional Land Surveyor's Act a misdemeanor.

Because a violation of the bill's provisions requiring a specified written contract and providing for rules and regulations of professional conduct would create a new crime, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6716 of the Business and
2 Professions Code is amended to read:

3 6716. (a) The board may adopt rules and regulations
4 consistent with law and necessary to govern its action.
5 These rules and regulations shall be adopted in
6 accordance with the provisions of the Administrative
7 Procedure Act.

8 The board shall hold at least two regular meetings each
9 year. Special meetings shall be held at such times as the
10 board rules provide. A majority of the board constitutes
11 a quorum. Except as otherwise provided by law, the vote
12 required for any action of the board is a majority of the
13 members present, but not less than five.

14 (b) The board may adopt rules and regulations of
15 professional conduct to maintain a high standard of
16 integrity in the engineering profession. The rules and

1 regulations shall be consistent with state and federal law.
2 Every person who holds a license or certificate issued by
3 the board pursuant to this chapter shall be governed by
4 these rules and regulations.

5 SEC. 2. Section 6717 of the Business and Professions
6 Code is amended to read:

7 6717. The board may, by regulation, define the scope
8 of each branch of professional engineering other than
9 civil, electrical, and mechanical engineering for which
10 registration is provided under this chapter.

11 SEC. 3. Section 6731.5 is added to the Business and
12 Professions Code, to read:

13 ~~6731.5. Electrical engineering is that branch of~~
14 ~~professional engineering described in Section 6734.1 that~~
15 ~~embraces studies or activities relating to the generation,~~
16 ~~transmission, and utilization of electrical energy,~~
17 ~~including the design of electrical, electronic, and~~
18 ~~magnetic circuits and the technical control of their~~
19 ~~operation and of the design of electrical gear. It is~~
20 ~~concerned with the research, organizational, and~~
21 ~~economic aspects of the above.~~

22 *6731.5. For purposes of this chapter, electrical*
23 *engineering includes all of the following activities where*
24 *they may impact life, health, property and public welfare*
25 *when applied to fixed works for the generation,*
26 *transmission, distribution, control, or grounding of*
27 *electrical energy, or fixed works for communication or*
28 *signal systems:*

29 *(a) Functional and economic analysis.*

30 *(b) Planning, coordination, and management of*
31 *engineering work.*

32 *(c) Preparation or submission of designs, plans,*
33 *specifications, and engineering reports.*

34 *(d) Coordination of the work of professional,*
35 *technical, or special consultants.*

36 *(e) Construction related observation.*

37 *(f) Investigation and verification of performance.*

38 SEC. 4. Section 6731.6 is added to the Business and
39 Professions Code, to read:

~~1 6731.6. Mechanical engineering is that branch of
2 professional engineering described in Section 6734.2 that
3 deals with engineering problems relating to generation,
4 transmission, and utilization of energy in the thermal or
5 mechanical form and also with engineering problems
6 relating to the production of tools, machinery, and their
7 products and to heating, ventilation, refrigeration, and
8 plumbing. It is concerned with the research, design,
9 production, operational, organizational, and economic
10 aspects of the above.~~

*11 6731.6. Mechanical engineering includes all of the
12 following activities where they may impact life, health,
13 property, and public welfare when applied to mechanical
14 fixed works for the conversion, transmission, control and
15 utilization of energy in thermal, fluid or mechanical form,
16 systems for heating, ventilation, air conditioning,
17 refrigeration, and plumbing; or the flow and storage of
18 fluids:*

19 (a) Functional and economic analysis.

*20 (b) Planning, coordination, and management of
21 engineering work.*

*22 (c) Preparation or submission of designs, plans,
23 specifications, and engineering reports.*

*24 (d) Coordination of the work of professional,
25 technical, or special consultants.*

26 (e) Construction related observation.

27 (f) Investigation and verification of performance.

*28 SEC. 5. Section 6749 is added to the Business and
29 Professions Code, to read:*

*30 6749. (a) A professional engineer shall use a written
31 contract when contracting to provide professional
32 engineering services to a client pursuant to this chapter.
33 The written contract shall be executed by the
34 professional engineer and the client, or his or her
35 representative, prior to the professional engineer
36 commencing work, unless the client knowingly states in
37 writing that work may be commenced before the
38 contract is executed. The written contract shall include,
39 but not be limited to, all of the following:*

1 (1) A description of the services to be provided to the
2 client by the professional engineer.

3 (2) A description of any basis of compensation
4 applicable to the contract, and the method of payment
5 agreed upon by the parties.

6 (3) The name, address, and license or certificate
7 number of the professional engineer, and the name and
8 address of the client.

9 (4) A description of the procedure that the
10 professional engineer and the client will use to
11 accommodate additional services.

12 (5) A description of the procedure to be used by any
13 party to terminate the contract.

14 (b) This section shall not apply to any of the following:

15 (1) Professional engineering services rendered by a
16 professional engineer for which the client will not pay
17 compensation.

18 (2) An arrangement as to the basis for compensation,
19 and the manner of providing professional engineering
20 services, implied by the fact that the professional
21 engineer's services are of the same general kind that the
22 professional engineer has previously rendered to and
23 received payment for, from the same client.

24 (3) If the client knowingly states in writing after full
25 disclosure of this section that a contract which complies
26 with the requirements of this section is not required.

27 (4) Professional engineering services rendered by a
28 professional engineer to any of the following:

29 (A) A professional engineer licensed or registered
30 under this chapter.

31 (B) A land surveyor licensed under Chapter 15
32 (commencing with Section 8700).

33 (C) An architect licensed under Chapter 3
34 (commencing with Section 5500).

35 (D) A contractor licensed under Chapter 9
36 (commencing with Section 7000).

37 (E) A geologist or a geophysicist licensed under
38 Chapter 12.5 (commencing with Section 7800).

39 SEC. 6. Section 6775 of the Business and Professions
40 Code is amended to read:

1 6775. The board may receive and investigate
2 complaints against registered professional engineers, and
3 make findings thereon.

4 By a majority vote, the board may reprove, suspend for
5 a period not to exceed two years, or revoke the certificate
6 of any professional engineer registered under this
7 chapter:

8 (a) Who has been convicted of a crime substantially
9 related to the qualifications, functions and duties of a
10 registered professional engineer, in which case the
11 certified record of conviction shall be conclusive
12 evidence thereof.

13 (b) Who has been found guilty by the board of any
14 deceit, misrepresentation, or fraud in his or her practice.

15 (c) Who has been found guilty by the board of
16 negligence or incompetence in his or her practice.

17 (d) Who has been found guilty by the board of any
18 breach or violation of a contract to provide professional
19 engineering services.

20 (e) Who has been found guilty of any fraud or deceit
21 in obtaining his or her certificate.

22 (f) Who aids or abets any person in the violation of any
23 provision of this chapter.

24 (g) Who in the course of the practice of professional
25 engineering has been found guilty by the board of having
26 violated a rule or regulation of unprofessional conduct
27 adopted by the board.

28 (h) Who violates any provision of this chapter.

29 SEC. 7. Section 8710 of the Business and Professions
30 Code is amended to read:

31 8710. (a) The Board for Professional Engineers and
32 Land Surveyors is vested with power to administer the
33 provisions and requirements of this chapter, and may
34 make and enforce rules and regulations that are
35 reasonably necessary to carry out its provisions.

36 (b) The board may adopt rules and regulations of
37 professional conduct to maintain a high standard of
38 integrity in the land surveying profession. The rules and
39 regulations shall be consistent with state and federal law.
40 Every person who holds a license or certificate issued by

1 the board pursuant to this chapter, or a license or
2 certificate issued to a civil engineer pursuant to Chapter
3 7 (commencing with Section 6700), shall be governed by
4 these rules and regulations.

5 (c) This section shall become inoperative on July 1,
6 2001, and, as of January 1, 2002, is repealed, unless a later
7 enacted statute, which becomes effective on or before
8 January 1, 2002, deletes or extends the dates on which it
9 becomes inoperative and is repealed. The repeal of this
10 section shall render the board subject to the review
11 required by Division 1.2 (commencing with Section 473).
12 However, the review of this board shall be limited to only
13 those unresolved issues identified by the Joint Legislative
14 Sunset Review Committee.

15 SEC. 8. Section 8759 is added to the Business and
16 Professions Code, to read:

17 8759. (a) A licensed land surveyor or registered civil
18 engineer authorized to practice land surveying shall use
19 a written contract when contracting to provide
20 professional services to a client pursuant to this chapter.
21 The written contract shall be executed by the licensed
22 land surveyor or registered civil engineer and the client,
23 or his or her representative, prior to the licensed land
24 surveyor or registered civil engineer commencing work,
25 unless the client knowingly states in writing that work
26 may be commenced before the contract is executed. The
27 written contract shall include, but not be limited to, all of
28 the following:

29 (1) A description of the services to be provided to the
30 client by the licensed land surveyor or registered civil
31 engineer.

32 (2) A description of any basis of compensation
33 applicable to the contract, and the method of payment
34 agreed upon by the parties.

35 (3) The name, address, and license or certificate
36 number of the licensed land surveyor or registered civil
37 engineer, and the name and address of the client.

38 (4) A description of the procedure that the licensed
39 land surveyor or registered civil engineer and the client
40 will use to accommodate additional services.

1 (5) A description of the procedure to be used by any
2 party to terminate the contract.

3 (b) This section shall not apply to any of the following:

4 (1) Professional land surveying services rendered by a
5 licensed land surveyor or registered civil engineer for
6 which the client will not pay compensation.

7 (2) An arrangement as to the basis for compensation,
8 and the manner of providing professional services,
9 implied by the fact that the licensed land surveyor's or
10 registered civil engineer's services are of the same
11 general kind that the licensed land surveyor or registered
12 civil engineer has previously rendered to and received
13 payment for, from the same client.

14 (3) If the client knowingly states in writing after full
15 disclosure of this section that a contract which complies
16 with the requirements of this section is not required.

17 (4) Professional services rendered by a licensed land
18 surveyor or a registered civil engineer to any of the
19 following:

20 (A) A professional engineer licensed or registered
21 under Chapter 7 (commencing with Section 6700).

22 (B) A land surveyor licensed under this chapter.

23 (C) An architect licensed under Chapter 3
24 (commencing with Section 5500).

25 (D) A contractor licensed under Chapter 9
26 (commencing with Section 7000).

27 (E) A geologist or a geophysicist licensed under
28 Chapter 12.5 (commencing with Section 7800).

29 SEC. 9. Section 8780 of the Business and Professions
30 Code is amended to read:

31 8780. The board may receive and investigate
32 complaints against licensed land surveyors and registered
33 civil engineers, and make findings thereon.

34 By a majority vote, the board may reprove, suspend for
35 a period not to exceed two years, or revoke the license or
36 certificate of any licensed land surveyor or registered
37 civil engineer, respectively, licensed under this chapter
38 or registered under the provisions of Chapter 7
39 (commencing with Section 6700) , whom it finds to be
40 guilty of:

1 (a) Any fraud, deceit, or misrepresentation in his or
2 her practice of land surveying.

3 (b) Any negligence or incompetence in his or her
4 practice of land surveying.

5 (c) Any fraud or deceit in obtaining his or her license.

6 (d) Any violation of any provision of this chapter or of
7 any other law relating to or involving the practice of land
8 surveying.

9 (e) Any conviction of a crime substantially related to
10 the qualifications, functions, and duties of a land surveyor.
11 The record of the conviction shall be conclusive evidence
12 thereof.

13 (f) Aiding or abetting any person in the violation of
14 any provision of this chapter.

15 (g) A breach or violation of a contract to provide land
16 surveying services.

17 (h) A violation in the course of the practice of land
18 surveying of a rule or regulation of unprofessional
19 conduct adopted by the board.

20 SEC. 10. No reimbursement is required by this act
21 pursuant to Section 6 of Article XIII B of the California
22 Constitution because the only costs that may be incurred
23 by a local agency or school district will be incurred
24 because this act creates a new crime or infraction,
25 eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition
28 of a crime within the meaning of Section 6 of Article
29 XIII B of the California Constitution.